

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Bryan Joseph Kruchten,

Civ. No. 14-1674 (MJD/JJG)

Plaintiff,

v.

REPORT AND RECOMMENDATION

**Sherburne Health and Human Services
Department and County of Sherburne,
Minnesota,**

Defendants.

JEANNE J. GRAHAM, United States Magistrate Judge

The above-captioned case is before the Court on Plaintiff Bryan Joseph Kruchten's self-styled civil complaint (ECF No. 1). Plaintiff did not tender any filing fee with his pleading, but instead filed an application seeking leave to proceed *in forma pauperis* (IFP) (ECF No. 2). The matter has been referred to this Court for a report and recommendation pursuant to 28 U.S.C. § 636 and Local Rule 72.1. For the reasons discussed below, it is recommended that the IFP application be denied and that the action be summarily dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

Plaintiff filed his complaint and IFP application on May 28, 2014. (ECF Nos. 1 & 2.) This Court previously recognized that Plaintiff's complaint alleges that his commitment violates the Fifth and Fourteenth Amendments. (Order, May 30, 2014, ECF No. 3.) On May 30, 2014, the Court ordered Plaintiff to file the following before June 30, 2014: (1) "a memorandum showing cause, if any, why the prosecution of this action is not barred by the *Younger* abstention doctrine," and (2) "an entirely new amended complaint that omits any claims challenging the

legality of his confinement or casting doubt on the legality of his confinement.” (*Id.* at 4.) The Court cautioned Plaintiff that if he did not respond to the Order in a timely matter, “he will be deemed to have abandoned this action, and the Court will recommend that the action be summarily dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).” (*Id.*)

To date, Plaintiff has not satisfied either of the requirements from this Court’s Order dated May 30, 2014. Therefore, the Court recommends that Plaintiff’s action be summarily dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”); *Henderson v. Renaissance Grand Hotel*, 267 Fed. Appx. 496, 497 (8th Cir. 2008) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

Accordingly, based on all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

1. Plaintiff’s application for leave to proceed *in forma pauperis* (ECF No. 2) be **DENIED**; and
2. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: July 16, 2014

s/Jeanne J. Graham

JEANNE J. GRAHAM

United States Magistrate Judge

NOTICE

Pursuant to District of Minnesota Local Rule 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by August 4, 2014. A party may respond to the objections within ten days after service thereof. Any objections or responses shall not exceed 3,500 words. The district judge will make a de novo determination of those portions of the Report and Recommendation to which objection is made. The party making the objections must timely order and file the transcript of any hearing unless the parties stipulate that the district judge is not required to review a transcript or if the district judge directs otherwise.